

# EXHIBIT A

COMMONWEALTH OF MASSACHUSETTS ETAL

NORFOLK, ss.

SUPERIOR COURT  
CIVIL ACTION

NO.

12 00291

Daniel Thomas Calden, Plaintiff(s)

v.

Patricia Hamlin / pres. of Arnold Defendant(s)

SUMMONS

To the above-named Defendant: Arnold Worldwide LLC

You are hereby summoned and required to serve upon Daniel Calden, plaintiff's attorney, whose address is 53 Countryside Lane Norwood MA 02062, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Dedham either before service upon the plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by Rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

WITNESS,

BARBARA J. ROUSE, Esquire

, at \_\_\_\_\_ the \_\_\_\_\_

day of \_\_\_\_\_, in the year of our Lord two thousand and \_\_\_\_\_

4-26-12

Deputy Sheriff Suffolk County

Tristen C. Dymally Clerk.

NOTES:

1. This summons is issued pursuant to Rules 4 of the Massachusetts Rules of Civil Procedure.
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each such defendant, each should be addressed to the particular defendant.

COMMONWEALTH OF MASSACHUSETTS

NORFOLK, ss

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

DANIEL T. CALDEN,

12 00291

Plaintiff,

v.

ARNOLD WORLDWIDE LLC & MCDONALDS RESTERAUNT CORPORATION

Defendants.

RECEIVED & FILED  
2012 FEB 15 PM 4:16  
CLERK OF THE COURT  
NORFOLK COUNTY

COMPLAINT AND JURY DEMAND

1. Plaintiff Daniel T. Calden entered a McDonalds contest on the website Myspace.com entitled The Big Mac Chant Off, on June 27<sup>th</sup> 2008. On June 27<sup>th</sup>-29<sup>th</sup> 2008 Calden showed his fixed work, that was then up on said Myspace.com page's contest entries page, to family as well as notable colleagues in the music field "for a laugh" said Calden. Then on June 30<sup>th</sup> 2008 his entry was taken down from said Myspace.com page, believing he had broken one of the rules of entry, Calden attempted to contact McDonalds as well as myspace to find out what had happened. Both parties McDonalds and Myspaced failed to give response to Calden so Mr. Calden just dismissed this action of no response and paid no mind to the situation for the following year. Until late February of 2009 when a commercial showed up on television featuring Calden's fixed work of music and video, only instead of the Big Mac they attached a parody of Calden's fixed work to an ad campaign featuring the Fillet o' Fish sandwich. Upon doing research Calden found that Peter Harvey at the ad agency Arnold Worldwide, based out of Boston, as well as composers Joseph Auch and Joshua Peck had taken claim for Calden's intellectual property, Calden has no affiliation with Harvey, Arnold, Auch or Peck. Calden is seeking retribution for a) Intellectual Property Theft b) Breach of Contest Contract c)

impropriety in the method of acquiring an idea d) Copyright Infringement e) Interference of monies earned due to commercial, merchandising, sales of ring tones and MP3's.

### PARTIES

2. Plaintiff Daniel T. Calden ("Mr. Calden") is an individual residing in Norwood, Norfolk County, Massachusetts.
3. Defendant Peter Harvey is a trustee at Arnold Worldwide with a privately listed address but lives in Boston and is employed by Arnold Worldwide at 101 Huntington Ave. Boston, MA 2199.
4. Defendant Pam Hamlin is a managing partner and president of Boston office, Arnold Worldwide LLC (2006-present). Privately listed address.
5. Defendant Joseph Auch is an individual with a privately listed address but has contact information of 35 Washington St. Brooklyn, NY 11201.
6. Defendant Joshua Peck is an individual with a privately listed address but has contact information of 35 Washington St. Brooklyn, NY 11201.
7. Defendant Robin Boorstein is president of McDonald's Regional Office, this individual has a privately listed address but has the contact information of 422 Washington St. Stoughton, MA 02072-4202.
8. Defendant John Lambrechts is Vice President of McDonalds Regional Office, this individual has a privately listed address but has the contact information of 690 Canton St. Westwood, MA 02090-2324.

### FACTS

9. Plaintiff Daniel T. Calden entered a McDonalds contest on the website Myspace.com entitled The Big Mac Chant Off, on June 27<sup>th</sup> 2008.



10. On June 27<sup>th</sup>-29<sup>th</sup> 2008 Calden showed his fixed work, that was then up on said Myspace.com page's contest entries page, to family as well as *notable* colleagues in the music field.

11. Then on June 30<sup>th</sup> 2008 his entry was taken down from said Myspace.com page.

12. Early July Calden attempted to contact McDonalds as well as myspace to find out what had happened.

13. Late February of 2009 a McDonalds commercial/campaign shows up on television featuring Calden's fixed work of music and video, only instead of the Big Mac they attached a parody of Calden's fixed work to an ad campaign featuring the Fillet o' Fish sandwich.

14. Upon doing research Calden found that Peter Harvey at the ad agency Arnold Worldwide, based out of Boston, as well as composers Joseph Auch and Joshua Peck had taken claim for Calden's intellectual property, Calden has no affiliation with Harvey, Arnold, Auch or Peck.

15. Calden's Intellectual Property was parodied by Arnold Worldwide and made for commercial usage, the factors make for *No Fair Use*.

16. The same instance happened in the 1970's. Sid and Marty Krofft Television Productions, Inc. v. McDonalds Corp. 562 F.2d 1157 (9<sup>th</sup> Cir. 1977).

**Count I**  
**Intellectual Property Theft**

17. Mr. Calden repeats and realleges herein the allegations contained in paragraphs 1-16 above. Calden's material had been parodied for commercial use without his knowledge or consent.

**Count II**  
**Breach of Contract**

18. After underhanded treatment during the contest with no response to Calden's follow-up queries McDonalds still steamed ahead with a parody of Calden's fixed material and released the Fillet o' Fish Commercial.

**Count III**  
**Impropriety in the Method of Acquiring an Idea**

19. After underhanded treatment during the contest with no response to Calden's follow-up queries McDonalds still steamed ahead with a parody of Calden's fixed material and released the Fillet o' Fish Commercial.

**Count IV**  
**Copyright Infringement**

20. Calden's fixed work was posted on his own myspace page under the heading MC Smiley Dan as well as saved I FILM files. Calden's work is fixed and copyrighted under the Copyright Act of 1976 U.S.C.A. 203 (a).

**Count V**  
**Interference of monies earned**

21. Besides the prize from the contest Calden has lost wages due to Mr. Harvey, Mr. Auch, and Mr.

Peck parodying Calden's fixed and copyrighted material and passing it off as their own. The McDonald's Corporation is also profiting from Calden's Fixed and copyrighted material (while Calden is NOT) by selling their Fillet o Fish sandwiches, selling related merchandise, selling ringtones and MP3's where Calden has not seen any monies nor acknowledgment.

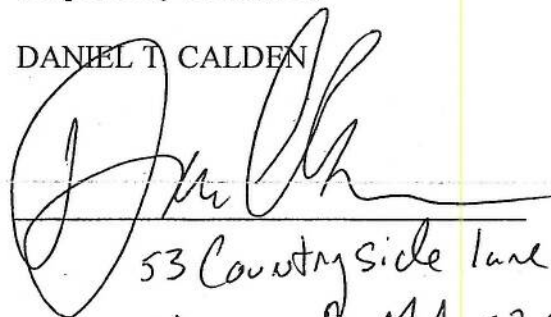
WHEREFORE, Plaintiff Daniel T. Calden prays that this court do the following:

1. Order the defendants instate proper credit to Mr. Calden concerning his fixed copyrighted material concerning how the team at Arnold Worldwide parodied Calden's fixed copyrighted material. Making it public with the same zeal they went forth with in the Fillet o Fish campaign. And expose the fraud committed during the Big Mac Chant Off Contest.
2. Award Mr. Calden money damages based on intellectual property theft, breach of contract, copyright infringement and interference of monies earned due to the commercial itself, merchandising, ringtone and MP3 sales.
3. Award Mr. Calden for damages for the impropriety in the method of acquiring an idea.
4. Award Mr. Calden his costs and expenses incurred in this action.
5. Award such other and further relief as the Court deems just and proper.

**PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY ON ALL CLAIMS SO TRIABLE.**

Respectfully submitted,

DANIEL T. CALDEN



Dated: February 15, 2012

53 Countryside Lane  
Norwood MA 02062  
(781) 769-8474



**CIVIL ACTION  
COVER SHEET**

Case 1:12-cv-10874-DJC Document 1-1 Filed 05/15/12 Page 8 of 8  
 Trial Court of Massachusetts  
 Superior Court Department  
 County: \_\_\_\_\_



PLAINTIFF(S)

*Daniel Calder*

DEFENDANT(S)

*Arnold Worldwide*

ATTORNEY, FIRM NAME, ADDRESS AND TELEPHONE

ATTORNEY (if known)

Board of Bar Overseers number:

**Origin code and track designation**

Place an x in one box only:

- ☒ 1. F01 Original Complaint  
☐ 2. F02 Removal to Sup.Ct. C.231,s.104  
 (Before trial) (F)  
☐ 3. F03 Retransfer to Sup.Ct. C.231,s.102C (X)

- ☐ 4. F04 District Court Appeal c.231, s. 97 & 104 (After trial) (X)  
☐ 5. F05 Reactivated after rescript; relief from judgment/Order (Mass.R.Civ.P. 60) (X)  
☐ 6. E10 Summary Process Appeal (X)

**TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)**

CODE NO.

TYPE OF ACTION (specify) TRACK

IS THIS A JURY CASE?

*A 99*

*Breach of Contract, (F)*

(☒) Yes ( ) No

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

**TORT CLAIMS**

(Attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses ..... \$ .....  
 2. Total Doctor expenses ..... \$ .....  
 3. Total chiropractic expenses ..... \$ .....  
 4. Total physical therapy expenses ..... \$ .....  
 5. Total other expenses (describe) ..... \$ .....  
 Subtotal \$ .....

B. Documented lost wages and compensation to date .....

C. Documented property damages to date .....

D. Reasonably anticipated future medical and hospital expenses .....

E. Reasonably anticipated lost wages .....

F. Other documented items of damages (describe) ..... \$ .....

G. Brief description of plaintiff's injury, including nature and extent of injury (describe)

\$ .....  
**TOTAL \$ .....**

**CONTRACT CLAIMS**

(Attach additional sheets as necessary)

Provide a detailed description of claim(s):

*Calder is claiming that the defendant's parodied his fixed & copyrighted work with commercial.*

TOTAL \$ *20 million*

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record

DATE: *2/15/12*